

House Bill 544

By: Representatives Efstration of the 104th and Oliver of the 82nd

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 7 of Title 37 of the Official Code of Georgia Annotated, relating to
2 hospitalization and treatment of alcoholics, drug dependent individuals, and drug abusers,
3 so as to revise procedures regarding emergency involuntary treatment; to require the
4 affidavits of the persons upon which an emergency involuntary treatment order is based to
5 be made part of the patient evaluation and among the documents that influence treatment
6 decisions; to provide for notification of such persons; to allow such persons to be designated
7 as patient representatives; to provide for related matters; to repeal conflicting laws; and for
8 other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 Chapter 7 of Title 37 of the Official Code of Georgia Annotated, relating to hospitalization
12 and treatment of alcoholics, drug dependent individuals, and drug abusers, is amended by
13 revising subsection (c) of Code Section 37-7-41, relating to emergency involuntary
14 treatment, who may certify need, delivery for examination, and report of delivery required,
15 as follows:

16 "(c) Any peace officer taking into custody and delivering for examination a person, as
17 authorized by subsection (a) or (b) of this Code section, shall execute a written report
18 detailing the circumstances under which such person was taken into custody. The report
19 and either the physician's certificate or court order, including the affidavits of the persons
20 provided for in subsection (b) of this Code section if such order is based upon such
21 affidavits, authorizing such custody shall be made a part of the patient's record and
22 considered as part of the patient evaluation."

23 **SECTION 2.**

24 Said chapter is further amended by revising Code Section 37-7-43, relating to procedure
25 upon admission and notice of proposed discharge, as follows:

26 "37-7-43.

27 (a) A patient who is admitted to an emergency receiving facility shall be examined by a
28 physician as soon thereafter as possible but in any event within 48 hours and may be given
29 such emergency treatment as is indicated by good medical practice. The patient must be
30 discharged within 48 hours of his or her admission unless:

31 (1) An examining physician or psychologist concludes that there is reason to believe,
32 based upon mental or physical appearance, the affidavits of the persons provided for in
33 subsection (b) of Code Section 37-7-41 if applicable, and any other documentation
34 accompanying the patient, that the patient may be an alcoholic, a drug dependent
35 individual, or a drug abuser which may result in imminent danger to the patient or to
36 others, requiring involuntary treatment and executes a certificate to that effect within such
37 time; or

38 (2) The patient is under criminal charges, notice of which has been given in writing to
39 the facility, in which case the provisions of Code Section 37-7-95 shall apply.

40 Nothing in this chapter shall be construed to prohibit a physician or psychologist who
41 previously executed a certificate authorized by the provisions of this chapter from
42 executing any other certificate provided for in this chapter for the same or any other
43 patient.

44 (b) Within 24 hours of the execution of the certificate under paragraph (1) of
45 subsection (a) of this Code section, the patient shall be transported, as provided in Code
46 Section 37-7-101, to an evaluating facility where he or she shall be received pursuant to
47 Code Section 37-7-63 unless the patient has been determined and certified to meet all of
48 the outpatient treatment requirements of paragraphs (1), (2), and (3) of subsection (c) of
49 Code Section 37-7-90, in which event the patient shall be discharged under the conditions
50 provided in Code Section 37-7-91, except that if the patient is under criminal charges,
51 notice of which has been given in writing to the facility, the provisions of Code Section
52 37-7-95 shall apply.

53 (c) Notice of any proposed discharge shall be given to the patient and his or her
54 representatives; if the patient was admitted to the facility under subsection (a) of Code
55 Section 37-7-41, to the physician or psychologist who executed the certificate; if the patient
56 was admitted to the facility under subsection (b) of Code Section 37-7-41, to the court
57 which issued the order; The court shall immediately notify the persons who provided
58 affidavits under subsection (b) of Code Section 37-7-41 of the patient's discharge and any
59 court ordered treatment plan, and if the patient was under criminal charges, written notice
60 of which had been given to the facility, by certified mail or statutory overnight delivery to
61 the law enforcement agency originally having custody of the patient."

62

SECTION 3.

63 Said chapter is further amended by revising Code Section 37-7-90, relating to physician's or
64 psychologist's determination and certification as to involuntary outpatient care and treatment
65 of patient as inpatient or outpatient, as follows:

66 "37-7-90.

67 (a) When a physician or psychologist at a facility or on behalf of a facility determines and
68 certifies under this article that there is reason to believe a patient admitted to or examined
69 at the facility is an alcoholic, a drug dependent individual, or a drug abuser requiring
70 involuntary treatment, that physician or psychologist shall further determine and certify
71 whether there is reason to believe the patient is:

72 (1) An inpatient or outpatient; and

73 (2) If an outpatient;:

74 (A) Whether whether:

75 (A)(i) There is available outpatient treatment; and

76 (B)(ii) The patient will likely comply with the outpatient treatment so as to minimize
77 the likelihood of the patient's becoming an inpatient; and

78 (B) Adhere to the requirements of subsection (e) of this Code section.

79 (b) Unless otherwise specifically provided, the determination and certification as to
80 paragraphs (1) and (2) of subsection (a) of this Code section shall be made within the time
81 period required for determining whether a patient is an alcoholic, a drug dependent
82 individual, or a drug abuser requiring involuntary treatment, except that if such
83 determination is made by a physician or psychologist at or on behalf of a community
84 mental health center, the determination and certification shall be made within four hours
85 after the patient is examined by the physician or psychologist.

86 (c) A person determined and certified to be:

87 (1) An outpatient;

88 (2) A person for whom there is available outpatient treatment; and

89 (3) Likely to comply with the outpatient treatment so as to minimize the likelihood of the
90 patient's becoming an inpatient

91 shall be considered to be in need of involuntary outpatient treatment and not involuntary
92 inpatient treatment for purposes of further proceedings under this article until such time as
93 that person's status is determined to be otherwise pursuant to those proceedings.

94 (d) A person determined and certified to be an alcoholic, a drug dependent individual, or
95 a drug abuser requiring involuntary treatment who does not meet all of the requirements
96 of paragraphs (1), (2), and (3) of subsection (c) of this Code section shall be considered to
97 be in need of involuntary inpatient treatment and not involuntary outpatient treatment for

98 purposes of further proceedings under this article until such time as that person's status is
99 determined to be otherwise pursuant to those proceedings.

100 (e)(1) If the patient is admitted as an outpatient to the evaluating facility by court order
101 transport with affidavits of persons provided for under subsection (b) of Code Section
102 37-7-41, the evaluating physician or psychologist shall provide the court with an
103 outpatient treatment plan. The court shall adopt such plan as a court ordered outpatient
104 treatment plan for the patient. The court shall immediately, or as reasonably as possible,
105 notify the patient and the affiants as provided for under subsection (b) of Code Section
106 37-7-41 as to the plan.

107 (2) The patient shall participate in the court ordered treatment plan and the outpatient
108 treatment facility shall report weekly to the court regarding the patient's attendance and
109 progress. The court, or the treatment facility as directed by the court, shall provide
110 weekly progress updates to the affiants as provided for under subsection (b) of Code
111 Section 37-7-41."

112 SECTION 4.

113 Said chapter is further amended by revising subsection (b) of Code Section 37-7-147, relating
114 to appointment of patient representatives and guardians ad litem, notice provisions, and
115 duration and scope of guardianship ad litem, as follows:

116 "(b) The patient may designate one representative; the second representative or, in the
117 absence of designation of one representative by the patient, both representatives shall be
118 selected by the facility. If the facility is to select both representatives, it must make one
119 selection from among the following persons in the order of listing: the patient's legal
120 guardian, spouse, adult child, parent, attorney, adult next of kin, or adult friend, provided
121 that, in the case of a patient whose representative or representatives have been appointed
122 by the court under Code Section 37-7-62, the facility shall not select a different
123 representative. The second representative shall also be selected from the above list but
124 without regard to the order of listing, ~~provided that the second representative shall not be~~
125 ~~the person who filed the petition to have the patient admitted to the facility.~~"

126 SECTION 5.

127 All laws and parts of laws in conflict with this Act are repealed.